

AMENDED IN SENATE JUNE 8, 2016

AMENDED IN SENATE MAY 9, 2016

AMENDED IN ASSEMBLY JUNE 1, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 470**

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**Introduced by Assembly Member Chu**

February 23, 2015

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An act to amend ~~Section 115922 of~~ *Section 7195 of the Business and Professions Code, and to amend Sections 115922 and 115925 of the Health and Safety Code*, relating to public health.

LEGISLATIVE COUNSEL’S DIGEST

AB 470, as amended, Chu. Public health: *pools*: drownings.

~~The~~

*Existing law, the Swimming Pool Safety Act requires Act, provides that it does not apply to any pool within the jurisdiction of any political subdivision that adopts an ordinance for swimming pools, as specified. The act further requires, when a building permit is issued for construction of a new swimming pool or spa, or the remodeling of an existing pool or spa, at a private, single-family home, that the pool or spa be equipped with at least 1 of 7 drowning prevention safety features. The act requires the local building code official to inspect and approve the drowning safety prevention devices before the issuance of a final approval for the completion of permitted construction or remodeling work.*

*This bill would instead require, when a building permit is issued or the home is sold, issued, that the pool or spa be equipped with at least 2 of the 7 drowning prevention safety features. By imposing additional*

duties on local officials, this bill would impose a state-mandated local program. *The bill would remove the exemption for the above-described political subdivisions.*

*Existing law defines terms related to paid home inspections, establishes a standard of care for home inspectors, and prohibits certain inspections in which the inspector or the inspector's employer, as specified, has a financial interest.*

*This bill would require a home inspection for real property with a swimming pool or spa to include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, of the specified 7 drowning prevention safety features the pool or spa is equipped with.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Pool Safety Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) *Swimming pools provide children and their families with a*
- 5 *wonderful opportunity for recreation, exercise, and fun. Keeping*
- 6 *children safe during this activity is supported by parents and*
- 7 *guardians, safety advocates, health providers, insurance*
- 8 *companies, and the swimming pool industry.*
- 9 (~~a~~)
- 10 (b) According to both the federal Centers for Disease Control
- 11 and Prevention's National Center for Injury Prevention and Control
- 12 and the State Department of Public Health's ~~EPI~~Center *EpiCenter*
- 13 ~~data, residential pool~~ drowning is the leading cause of death for
- 14 California children between ~~1 to 4~~ *one to four* years of age,
- 15 inclusive.
- 16 (~~b~~)

1 (c) Additional children suffer near-drowning incidents and  
2 survive, but many of those children suffer irreversible brain  
3 injuries, which can lead to lifelong learning deficiencies that impact  
4 not only the affected child and his or her family, but also the  
5 resources and moneys available to California's healthcare system,  
6 regional centers, and special education school programs.

7 ~~(e) Barriers, such as those required pursuant to Section 115922~~  
8 ~~of the Health and Safety Code, prevent young children from~~  
9 ~~gaining unsupervised access to pools and are proven to save lives,~~  
10 ~~and those barriers that utilize isolation fencing are among the most~~  
11 ~~effective.~~

12 (d) *Close parental supervision of children with access to*  
13 *swimming pools is essential to providing pool safety for children.*  
14 *Barriers, such as those required pursuant to Section 115922 of*  
15 *the Health and Safety Code, can help to deter young children from*  
16 *gaining unsupervised access to pools. Swimming lessons are*  
17 *encouraged and can help children understand the importance of*  
18 *water safety.*

19 ~~(d)~~

20 (e) All water sports activities come with risk. Knowing the risks  
21 and having drowning prevention strategies in place before and  
22 during water sports activities reduce drowning incidents, and the  
23 installation of a residential pool barrier is a critical, necessary, and  
24 leading strategy to further California's goal of dramatically  
25 reducing unintentional injury and ensuring that drowning is no  
26 longer the leading cause of death and hospitalizations for children.  
27 injury.

28 SEC. 3. *Section 7195 of the Business and Professions Code is*  
29 *amended to read:*

30 7195. For purposes of this chapter, the following definitions  
31 apply:

32 (a) (1) "Home inspection" is a noninvasive, physical  
33 examination, performed for a fee in connection with a transfer, as  
34 defined in subdivision (e), of real property, of the mechanical,  
35 electrical, or plumbing systems or the structural and essential  
36 components of a residential dwelling of one to four units designed  
37 to identify material defects in those systems, structures and  
38 components. "Home inspection" includes any consultation  
39 regarding the property that is represented to be a home inspection  
40 or any confusingly similar term.

(2) *In connection with a transfer, as defined in subdivision (e), of real property with a swimming pool or spa, a “home inspection” shall include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped with.*

~~(2)~~

(3) “Home inspection,” if requested by the client, may include an inspection of energy efficiency . Energy efficiency items to be inspected may include the following:

(A) A noninvasive inspection of insulation R-values in attics, roofs, walls, floors, and ducts.

(B) The number of window glass panes and frame types.

(C) The heating and cooling equipment and water heating systems.

(D) The age and fuel type of major appliances.

(E) The exhaust and cooling fans.

(F) The type of thermostat and other systems.

(G) The general integrity and potential leakage areas of walls, window areas, doors, and duct systems.

(H) The solar control efficiency of existing windows.

(b) A “material defect” is a condition that significantly affects the value, desirability, habitability, or safety of the dwelling. Style or aesthetics shall not be considered in determining whether a system, structure, or component is defective.

(c) A “home inspection report” is a written report prepared for a fee and issued after a home inspection. The report clearly describes and identifies the inspected systems, structures, or components of the dwelling, any material defects identified, and any recommendations regarding the conditions observed or recommendations for evaluation by appropriate persons. *In a dwelling with a pool or spa, the “home inspection report” shall identify which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped with and shall specifically state if the pool or spa has fewer than two of the listed drowning prevention safety features.*

(d) A “home inspector” is any individual who performs a home inspection.

1 (e) “Transfer” is a transfer by sale, exchange, installment land  
2 sales contract, as defined in Section 2985 of the Civil Code, lease  
3 with an option to purchase, any other option to purchase, or ground  
4 lease coupled with improvements, of real property or residential  
5 stock cooperative, improved with or consisting of not less than  
6 one nor more than four dwelling units.

7 ~~SEC. 3.~~

8 *SEC. 4.* Section 115922 of the Health and Safety Code is  
9 amended to read:

10 115922. (a) Except as provided in Section 115925, when a  
11 building permit is issued for the construction of a new swimming  
12 pool or spa or the remodeling of an existing swimming pool or  
13 ~~spa, spa at a private single-family home, or when a private~~  
14 ~~single-family home with an existing swimming pool or spa is sold,~~  
15 the swimming pool or spa shall be equipped with at least two of  
16 the following seven drowning prevention safety features:

17 (1) An enclosure that meets the requirements of Section 115923  
18 and isolates the swimming pool or spa from the private  
19 single-family home.

20 (2) Removable mesh fencing that meets American Society for  
21 Testing and Materials (ASTM) Specifications F 2286 standards  
22 in conjunction with a gate that is self-closing and self-latching and  
23 can accommodate a key lockable device.

24 (3) An approved safety pool cover, as defined in subdivision  
25 (d) of Section 115921.

26 (4) Exit alarms on the private single-family home’s doors that  
27 provide direct access to the swimming pool or spa. The exit alarm  
28 may cause either an alarm noise or a verbal warning, such as a  
29 repeating notification that “the door to the pool is open.”

30 (5) A self-closing, self-latching device with a release mechanism  
31 placed no lower than 54 inches above the floor on the private  
32 single-family home’s doors providing direct access to the  
33 swimming pool or spa.

34 (6) An alarm that, when placed in a swimming pool or spa, will  
35 sound upon detection of accidental or unauthorized entrance into  
36 the water. The alarm shall meet and be independently certified to  
37 the ASTM Standard F 2208 “Standards Specification for Pool  
38 Alarms,” which includes surface motion, pressure, sonar, laser,  
39 and infrared type alarms. A swimming protection alarm feature  
40 designed for individual use, including an alarm attached to a child

1 that sounds when the child exceeds a certain distance or becomes  
2 submerged in water, is not a qualifying drowning prevention safety  
3 feature.

4 (7) Other means of protection, if the degree of protection  
5 afforded is equal to or greater than that afforded by any of the  
6 features set forth above and has been independently verified by  
7 an approved testing laboratory as meeting standards for those  
8 features established by the ASTM or the American Society of  
9 Mechanical Engineers (ASME).

10 (b) Before the issuance of a final approval for the completion  
11 of permitted construction or remodeling work, the local building  
12 code official shall inspect the drowning safety prevention features  
13 required by this act and, if no violations are found, shall give final  
14 approval.

15 ~~(e) (1) Before an individual may sell a private single-family~~  
16 ~~home with an existing swimming pool or spa, the local building~~  
17 ~~code official shall inspect the drowning prevention features~~  
18 ~~required by this act and, if no violations are found, shall certify~~  
19 ~~that the private single-family home is in compliance with this~~  
20 ~~section.~~

21 ~~(2) No transfer of title shall be invalidated on the basis of a~~  
22 ~~failure to comply with this section, and the exclusive remedy for~~  
23 ~~the failure to comply with this section is an award of actual~~  
24 ~~damages not to exceed five hundred dollars (\$500), exclusive of~~  
25 ~~any court costs and attorney's fees. This subdivision is not intended~~  
26 ~~to affect any duties, rights, or remedies otherwise available at law.~~

27 *SEC. 5. Section 115925 of the Health and Safety Code is*  
28 *amended to read:*

29 115925. The requirements of this article shall not apply to any  
30 of the following:

31 (a) Public swimming pools.

32 (b) Hot tubs or spas with locking safety covers that comply  
33 with the American Society for Testing Materials-Emergency  
34 Performance Specification (ASTM-ES 13-89).

35 ~~(e) Any pool within the jurisdiction of any political subdivision~~  
36 ~~that adopts an ordinance for swimming pool safety that includes~~  
37 ~~requirements that are at least as stringent as this article.~~

38 ~~(d)~~

39 (c) An apartment complex, or any residential setting other than  
40 a single-family home.

1     ~~SEC. 4.~~

2     *SEC. 6.* If the Commission on State Mandates determines that  
3 this act contains costs mandated by the state, reimbursement to  
4 local agencies and school districts for those costs shall be made  
5 pursuant to Part 7 (commencing with Section 17500) of Division  
6 4 of Title 2 of the Government Code.

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